

Opinion No. 15-1706

January 6, 1915

BY: FRANK W. CLANCY, Attorney General

TO: Hon. James A. French, State Engineer, Santa Fe, New Mexico.

County road board is not proper authority to draw warrants upon Camino Real fund.

OPINION

{*277} I am informed that some question has been raised as to whether county road boards or the county commissioners are authorized to draw warrants upon the Camino Real Fund, and that you desire some expression of opinion from me on that subject.

On June 7, 1913, I wrote a letter to the State Highway Commission, in substance, to the effect that under Section 7 of Chapter 54 of the Laws of 1912, which reappears as Section 2647 of the new codification of the statutes, all road funds should be expended under the supervision and direction of the county road board, and that the county commissioners had no control over those road funds with certain exceptions as to a certain class of bridges which were by Chapter 32 of the Laws of 1913 put under the charge of the county commissioners. I can see no reason why the opinion which I gave at that time as to road funds generally is not equally applicable to the Camino Real Fund, and therefore, the county road board is the proper authority to draw any warrant against that fund.

Somewhat later, the supreme court of the state in the case of State v. Romero, 140 Pac., 1069, held in accordance with my contention, that this section of the statute gave the county road boards power to draw warrants direct on the treasurer against county road funds, reserving to the county commissioners authority to draw warrants for the purpose of paying for land taken for road purposes, for the reason that the county commissioners were the only body {*278} authorized to condemn lands for road purposes and must necessarily have authority to pay for the land.